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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/612,501	07/02/2003	Peter Kreuter	02/07093	3491

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EXAMINER

RIDDLE, KYLE M

ART UNIT PAPER NUMBER

3748

DATE MAILED: 03/23/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/612,501

Applicant(s)

KREUTER, PETER

Examiner

Kyle M. Riddle

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-25 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 23-25 is/are allowed.
- 6) ☒ Claim(s) 1 and 13 is/are rejected.
- 7) ☒ Claim(s) 2-12 and 14-22 is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 15 August 2003 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
- 1) ☒ Certified copies of the priority documents have been received.
 - 2) ☐ Certified copies of the priority documents have been received in Application No. ____.
 - 3) ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input checked="" type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. ____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date <u>08142003</u> . | 6) <input type="checkbox"/> Other: ____ |

DETAILED ACTION

Drawings

1. The drawings are objected to as failing to comply with 37 CFR 1.84(p)(5) because they do not include the following reference sign(s) mentioned in the description: Page 17, paragraph 49, line 2, "apertures 33" not shown in the drawings. A proposed drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

Specification

2. The disclosure is objected to because of the following informalities: Page 13, paragraph 36, last line, "16a, 16b, 16c" should read --16a, 17a, 18a--.

Appropriate correction is required.

Claim Objections

3. Claim 21 recites the limitation "the first mounting portion" and "the second mounting portion" in page 29, claim 21. There is insufficient antecedent basis for these limitations in the claim.

Claim Rejections - 35 USC § 102

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

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5. Claims 1 and 13 are rejected under 35 U.S.C. 102(e) as being anticipated by Hendriksma et al. (U.S. Patent 6,591,798).

Hendriksma et al. disclose a variable valve actuation assembly comprising:

- a camshaft 90 with a central high-lift lobe 96 with cam follower 32 and a pair of identical peripheral low-lift lobes 98 flanking lobe 96 and having cam followers 38 (column 5, lines 37-42 and Figure 4);
- a mounting frame 24 for cam followers 32, 38 using pin 34 in slot 36 (column 4, lines 20-28);
- a first rotational position where a primary latching pin 44 is disengaged from high-lift follower 32 resulting in low-lift cam lobe 98 contacting base circle portion 100 with low-lift follower 38 producing a low-lift valve profile (column 5, lines 45-49), while high-lift follower 32 simply pivots without lift effect on valve 12 (column 6, lines 5-8);
- a second rotational position where both a primary latching pin 44 and secondary latching pin 76 are engaged to shift the assembly from the low-lift mode to the high-lift mode where cam follower 32 is pivoted by high-lift lobe 96 (column 6, lines 57-67);
- a rocker assembly 16 for supporting frame 24, cam followers 32, 38, and latching pin 44 (column 4, lines 13-32) for actuation of valves 12 (column 5, lines 31-34);
- a latching pin 44 for locking the cam followers 32, 38 into either the low-lift mode or high lift mode (column 4, lines 30-40, column 5, lines 45-50, column 6, lines 57-67);
- follower roller 38' rotatably mounted to frame 24 as a substitute for cam follower 38 (column 7, lines 30-35).

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6. Claims 2-12, 14-22 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

7. Claims 23-25 are allowed.

Conclusion

8. The IDS (PTO-1449) filed on 14 August 2003 has been considered. An initialized copy is attached hereto.

9. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure and consists of 2 patents.

- Hara (U.S. Patent 5,297,516) discloses a valve actuating apparatus with high and low speed cams and a locking mechanism.

- Hampton et al. (U.S. Patent 5,655,488) disclose a dual event valve control system with a high and low lift cam and a stop for switching inbetween.

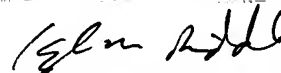
Communication

10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Kyle M. Riddle whose telephone number is (703) 306-3409. The examiner can normally be reached on M-F (07:30-5:00) Second Friday Off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Thomas Denion can be reached on (703) 308-2623. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

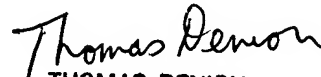
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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Kyle M. Riddle
Examiner
Art Unit 3748

kmr



THOMAS DENION
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 3700